



April 18, 2012

Ex Parte Notice

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; High-Cost Universal Service Support, WC Docket No. 05-337; Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link-Up, WC Docket No. 03-109; Universal Service Reform – Mobility Fund, WT Docket No. 10-208; Rules and Regulations Implementing the Truth in Caller ID Act of 2009, WC Docket No. 11-39

Dear Ms. Dortch:

On Tuesday, April 17, 2012, the undersigned met separately on behalf of the National Telecommunications Cooperative Association (“NTCA”) with Angela Kronenberg, Wireline Legal Advisor to Commissioner Mignon Clyburn, and Christine Kurth, Policy Director and Wireline Counsel to Commissioner McDowell, to discuss certain matters in the above-referenced proceedings as described further below.

Clarification Regarding Originating Access Charges. In each meeting, NTCA expressed support for the positions taken and arguments advanced by Frontier and Windstream regarding the need for clarification with respect to the applicability of originating intrastate access charges to all traffic, regardless of whether it terminates in TDM or VoIP format on the distant end. *See* Reply of Frontier and Windstream to Petition for Reconsideration and/or Clarification (filed Feb. 21, 2012). In addition to the many valid arguments already raised by Frontier and Windstream, NTCA notes that the Federal Communications Commission (the “Commission”) could not have been more clear that there was no intent to reduce originating intrastate access charges in any manner for rural rate-of-return regulated incumbent local exchange carriers (“RLECs”). Specifically, the Order identified concerns about “overburdening the Universal Service Fund” as well as a belief that the wholesale toll market would constrain originating rates as justification to avoid capping or otherwise reforming originating intrastate access rates for RLECs. Order at ¶ 805.

NTCA also discussed in each meeting the revenue shortfalls that would result from applying the originating interstate access rate for calls placed to VoIP customers within the same state. *See Ex Parte* Letter from Michael R. Romano, Senior Vice President-Policy, NTCA, to Marlene H. Dortch, Secretary, WC Docket No. 10-90, *et al.* (filed March 12, 2012). NTCA noted that any such shortfalls would need to be addressed through Connect America Fund intercarrier compensation support given that there would be no other means to “adjust” to such material changes in access rate structures. Specifically, I noted in each meeting that the incremental imposition of Access Recovery Charges (which would be up to \$1.50 per month as of July 2014), local rate benchmarks (which could be up to \$16.00 per month or more in a few years), and material reductions in legacy high-cost support mechanisms under the Order (which would appear to average several dollars per month per line for RLECs as a whole and much more for many individual carriers) will leave little, if any, ability to recover additional revenues from end users – presuming that such costs of originating access could properly be recovered from such end users in the first instance. Indeed, this piling of regulatory policy-driven consumer rate increases atop one another calls into question how the Commission’s intercarrier compensation reforms (including any changes to originating access as may be presently contemplated) can possibly be squared with the statutory mandate to ensure that service rates are reasonably comparable between urban and rural areas.

Finally, NTCA noted in each meeting that any reduction in originating access revenues should be accompanied by corresponding relief from equal access obligations. Equal access is a component of the access service provided by local exchange carriers, in return for which interexchange carriers tender payment to LECs. Reduction of originating access charges by regulatory fiat should result in the elimination of a regulatory mandate to render equal access service and comply with related equal access obligations. *See also* Comments of NTCA, *et al.*, WC Docket No. 10-90, *et al.* (filed Feb. 24, 2012), at 13.

Rural Call Completion Concerns.

In each meeting, NTCA also reported that its members had observed an increase of rural call completion concerns yet again in recent weeks – including delayed ringing on the called party’s end, Caller ID issues, calls that never appear to reach the RLEC network at all, and calls that “loop” between routing providers. Although the Wireline Competition Bureau took much-needed action in its February 2012 call completion Declaratory Ruling to define the responsibility of carriers for the actions of their agents and least-cost routing providers, I noted that this decision must be seen only as a critical step and as a tool that the Commission and its bureaus can then use to deter and punish conduct by bad actors and those who turn a blind eye to such conduct. These problems are unlikely to be resolved unless and until a provider that has failed materially and repeatedly to route calls to destinations as sought by originating callers faces some consequence for such failures.

Ms. Marlene H. Dortch

April 18, 2012

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I noted in each meeting that the Commission has previously taken concrete public steps to address concerns about “blocking” and denial of consumer choice in other contexts. For example, the Commission’s Wireless Telecommunications Bureau took immediate (and very public) note when, in 2009, it examined whether AT&T and Apple may have collaborated to deny the deployment of a Google Voice application on iPhone devices. In letters sent to AT&T, Apple, and Google at the time, the Commission staff asked a series of detailed questions intended to ensure that service providers were not acting unreasonably to deny consumer choices, expectations, and demands. I suggested that if the Wireless Telecommunications Bureau could send public letters in a matter of days asking questions about potential “blocking” concerns in connection with a pending rulemaking that involved services over which the Commission’s jurisdiction is unclear, it is long past time for similar public correspondence to be sent to regulated carriers that are subject to allegations of material and repeated failures in the provision of regulated retail services.

I provided Ms. Kronenberg and Ms. Kurth with excerpts from a recent *ex parte* filing that included a comprehensive list of questions that NTCA recommends the Wireline Competition Bureau send to such regulated retail interexchange carriers. *Ex Parte* Letter from Michael R. Romano, Senior Vice President-Policy, NTCA, to Marlene H. Dortch, WC Docket No 10-90, *et al.* (filed Mar. 22, 2012). I noted that a copy of this “questions list” was first provided to the Commission in June 2011, and I urged all of the Commissioners to support and encourage such proactive outreach by bureau staff.

Pursuant to Section 1.1206 of the Commission’s rules, a copy of this letter is being filed via ECFS. The documents provided in these meetings are attached hereto. If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Michael R. Romano

Michael R. Romano

Senior Vice President - Policy

Enclosures

cc: Angela Kronenberg
Christine Kurth



March 22, 2012

Ex Parte Notice

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Rules and Regulations Implementing the Truth in Caller ID Act of 2009, WC Docket No. 11-39

Dear Ms. Dortch:

On Wednesday, March 21, 2012, Jill Canfield and the undersigned on behalf of the National Telecommunications Cooperative Association (“NTCA”), together with Keith Galitz and Brandon Zupancic of Canby Telecom (“Canby”), met with Travis Litman, John Hunter, Richard Hovey and Elizabeth Anderson from the Wireline Competition Bureau and Margaret Dailey from the Enforcement Bureau to discuss continuing concerns relating to call completion issues, phantom traffic, Truth in Caller ID issues, and access avoidance.

Canby provided the attached presentation to describe recent experiences with respect to each of these concerns. Canby’s presentation highlights the dire need for the Federal Communications Commission (the “Commission”) to take a proactive role in monitoring and enforcing its Caller ID rules, its phantom traffic rules, and its February 2012 call completion Declaratory Ruling. These new rules and rulings will only be effective if policed, and only the Commission is positioned to address them on a national level. Moreover, we urged the Commission to adopt phantom traffic rules requiring the delivery of carrier identification information, as the data provided by Canby confirms that service providers are using the anonymity afforded by the current rules to deflect any obligation for intercarrier compensation (“ICC”). We noted that such information is essential to the long-term efficacy of the phantom traffic rules, perhaps even more so than the jurisdictional nature of the call.

We also observed during the meeting that the Commission has in recent years taken concrete public steps to address concerns about “blocking” and denial of consumer choice in other contexts. For example, the Commission’s Wireless Telecommunications Bureau took immediate (and very public) note when, in 2009, it examined whether AT&T and Apple may have collaborated to deny the deployment of a Google Voice application on iPhone devices. In letters sent to AT&T, Apple, and Google, the Commission staff asked a series of detailed questions

Ms. Marlene H. Dortch
March 22, 2012
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intended to ensure that service providers were not acting to unreasonably deny consumer choices, expectations, and demands. Copies of the Wireless Telecommunications Bureau's correspondence to AT&T, Apple, and Google are included herewith.

If the Wireless Telecommunications Bureau can send public letters in a matter of days to certain parties asking questions about potential "blocking" concerns in connection with a pending rulemaking that involved services over which the Commission's jurisdiction is unclear, we noted that it is long past time for similar public correspondence to be sent to regulated carriers that are subject to allegations of material and repeated failures in the provision of regulated services. Indeed, we noted that NTCA provided a comprehensive list of questions that the Commission can and should send to such regulated interexchange carriers in June 2011, and we urged the Wireline Competition Bureau to proceed quickly to transmit those questions now. A copy of the question list is provided herewith.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS with your office. If you have any questions, please do not hesitate to contact me at (703) 351-2016 or mromano@ntca.org.

Sincerely,

/s/ Michael R. Romano
Michael R. Romano

Senior Vice President - Policy

Enclosures

cc: Travis Litman
John Hunter
Richard Hovey
Elizabeth Anderson
Margaret Dailey



**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

July 31, 2009

James W. Cicconi
Senior Executive Vice President-External and Legislative Affairs
AT&T Services, Inc.
1120 20th Street, NW, Suite 1000
Washington, DC 20036

RE: Apple's Rejection of the Google Voice for iPhone Application

Dear Mr. Cicconi:

Recent press reports indicate that Apple has declined to approve the Google Voice application for the iPhone and has removed related (and previously approved) third-party applications from the iPhone App Store.¹ In light of pending FCC proceedings regarding wireless open access (RM-11361) and handset exclusivity (RM-11497), we are interested in a more complete understanding of this situation.

To that end, please provide answers to the following questions by close of business on Friday, August 21, 2009.

1. What role, if any, did AT&T play in Apple's consideration of the Google Voice and related applications? What role, if any, does AT&T play in consideration of iPhone applications generally? What roles are specified in the contractual provisions between Apple and AT&T (or in any non-contractual understanding between the companies) regarding the consideration of particular iPhone applications?
2. Did Apple consult with AT&T in the process of deciding to reject the Google Voice application? If so, please describe any communications between AT&T and Apple or Google on this topic, including the parties involved and a summary of any meetings or discussions.
3. Please explain AT&T's understanding of any differences between the Google Voice iPhone application and any Voice over Internet Protocol applications that are currently used on the AT&T network, either via the iPhone or via handsets other than the iPhone.

¹ See, e.g., Jenna Wortham, "Even Google is Blocked With Apps for iPhone," *New York Times*, July 28, 2009.

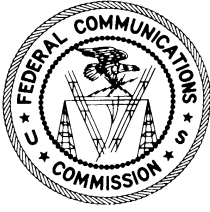
4. To AT&T's knowledge, what other applications have been rejected for use on the iPhone? Which of these applications were designed to operate on AT&T's 3G network? What was AT&T's role in considering whether such applications would be approved or rejected?
5. Please detail any conditions included in AT&T's agreements or contracts with Apple for the iPhone related to the certification of applications or any particular application's ability to use AT&T's 3G network.
6. Are there any terms in AT&T's customer agreements that limit customer usage of certain third-party applications? If so, please indicate how consumers are informed of such limitations and whether such limitations are posted on the iTunes website as well. In general, what is AT&T's role in certifying applications on devices that run over AT&T's 3G network? What, if any, applications require AT&T's approval to be added to a device? Are there any differences between AT&T's treatment of the iPhone and other devices used on its 3G network?
7. Please list the services/applications that AT&T provides for the iPhone, and whether there any similar, competing iPhone applications offered by other providers in Apple's App Store.
8. Do any devices that operate on AT&T's network allow use of the Google Voice application? Do any devices that operate on AT&T's network allow use of other applications that have been rejected for the iPhone?
9. Please explain whether, on AT&T's network, consumers' access to and usage of Google Voice is disabled on the iPhone but permitted on other handsets, including Research in Motion's BlackBerry devices.

Request for Confidential Treatment. If AT&T requests that any information or documents responsive to this letter be treated in a confidential manner, it shall submit, along with all responsive information and documents, a statement in accordance with section 0.459 of the Commission's rules. 47 C.F.R. § 0.459. Requests for confidential treatment must comply with the requirements of section 0.459, including the standards of specificity mandated by section 0.459(b). Accordingly, "blanket" requests for confidentiality of a large set of documents are unacceptable. Pursuant to section 0.459(c), the Bureau will not consider requests that do not comply with the requirements of section 0.459.

Thank you in advance for your anticipated cooperation.

Sincerely,

James D. Schlichting
Acting Chief
Wireless Telecommunications Bureau
Federal Communications Commission



**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

July 31, 2009

Catherine A. Novelli, Vice President
Worldwide Government Affairs
Apple Inc.
901 15th Street, NW, Suite 1000
Washington, DC 20005

RE: Google Voice and related iPhone applications

Dear Ms. Novelli:

Recent press reports indicate that Apple has declined to approve the Google Voice application for the iPhone and has removed related (and previously approved) third-party applications from the iPhone App Store.¹ In light of pending FCC proceedings regarding wireless open access (RM-11361) and handset exclusivity (RM-11497), we are interested in a more complete understanding of this situation.

To that end, please provide answers to the following questions by close of business on Friday, August 21, 2009.

1. Why did Apple reject the Google Voice application for iPhone and remove related third-party applications from its App Store? In addition to Google Voice, which related third-party applications were removed or have been rejected? Please provide the specific name of each application and the contact information for the developer.
2. Did Apple act alone, or in consultation with AT&T, in deciding to reject the Google Voice application and related applications? If the latter, please describe the communications between Apple and AT&T in connection with the decision to reject Google Voice. Are there any contractual conditions or non-contractual understandings with AT&T that affected Apple's decision in this matter?
3. Does AT&T have any role in the approval of iPhone applications generally (or in certain cases)? If so, under what circumstances, and what

¹ See, e.g., Jenna Wortham, "Even Google is Blocked With Apps for iPhone," *New York Times*, July 28, 2009.

role does it play? What roles are specified in the contractual provisions between Apple and AT&T (or any non-contractual understandings) regarding the consideration of particular iPhone applications?

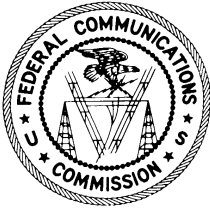
4. Please explain any differences between the Google Voice iPhone application and any Voice over Internet Protocol (VoIP) applications that Apple has approved for the iPhone. Are any of the approved VoIP applications allowed to operate on AT&T's 3G network?
5. What other applications have been rejected for use on the iPhone and for what reasons? Is there a list of prohibited applications or of categories of applications that is provided to potential vendors/developers? If so, is this posted on the iTunes website or otherwise disclosed to consumers?
6. What are the standards for considering and approving iPhone applications? What is the approval process for such applications (timing, reasons for rejection, appeal process, etc.)? What is the percentage of applications that are rejected? What are the major reasons for rejecting an application?

Request for Confidential Treatment. If Apple requests that any information or documents responsive to this letter be treated in a confidential manner, it shall submit, along with all responsive information and documents, a statement in accordance with section 0.459 of the Commission's rules. 47 C.F.R. § 0.459. Requests for confidential treatment must comply with the requirements of section 0.459, including the standards of specificity mandated by section 0.459(b). Accordingly, "blanket" requests for confidentiality of a large set of documents are unacceptable. Pursuant to section 0.459(c), the Bureau will not consider requests that do not comply with the requirements of section 0.459.

Thank you in advance for your anticipated cooperation.

Sincerely,

James D. Schlichting
Acting Chief
Wireless Telecommunications Bureau
Federal Communications Commission



**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

July 31, 2009

Richard S. Whitt, Esq.
Washington Telecom and Media Counsel
Google Inc.
1101 New York Avenue, NW, Second Floor
Washington, DC 20005

RE: Apple's Rejection of the Google Voice for iPhone Application

Dear Mr. Whitt:

Recent press reports indicate that Apple has declined to approve the Google Voice application for the iPhone and has removed related (and previously approved) third-party applications from the iPhone App Store.¹ In light of pending FCC proceedings regarding wireless open access (RM-11361) and handset exclusivity (RM-11497), we are interested in a more complete understanding of this situation.

To that end, please provide answers to the following questions by close of business on Friday, August 21, 2009.

1. Please provide a description of the proposed Google Voice application for iPhone. What are the key features, and how does it operate (over a voice or data network, etc.)?
2. What explanation was given (if any) for Apple's rejection of the Google Voice application (and for any other Google applications for iPhone that have been rejected, such as Google Latitude)? Please describe any communications between Google and AT&T or Apple on this topic and a summary of any meetings or discussion.
3. Has Apple approved any Google applications for the Apple App Store? If so, what services do they provide, and, in Google's opinion, are they similar to any Apple/AT&T-provided applications?
4. Does Google have any other proposed applications pending with Apple, and if so, what services do they provide?

¹ See, e.g., Jenna Wortham, "Even Google is Blocked With Apps for iPhone," *New York Times*, July 28, 2009.

5. Are there other mechanisms by which an iPhone user will be able to access either some or all of the features of Google Voice? If so, please explain how and to what extent iPhone users can utilize Google Voice despite the fact that it is not available through Apple's App Store.
6. Please provide a description of the standards for considering and approving applications with respect to Google's Android platform. What is the approval process for such applications (timing, reasons for rejection, appeal process, etc.)? What is the percentage of applications that are rejected? What are the major reasons for rejecting an application?

Request for Confidential Treatment. If Google requests that any information or documents responsive to this letter be treated in a confidential manner, it shall submit, along with all responsive information and documents, a statement in accordance with section 0.459 of the Commission's rules. 47 C.F.R. § 0.459. Requests for confidential treatment must comply with the requirements of section 0.459, including the standards of specificity mandated by section 0.459(b). Accordingly, "blanket" requests for confidentiality of a large set of documents are unacceptable. Pursuant to section 0.459(c), the Bureau will not consider requests that do not comply with the requirements of section 0.459.

Thank you in advance for your anticipated cooperation.

Sincerely,

James D. Schlichting
Acting Chief
Wireless Telecommunications Bureau
Federal Communications Commission

QUESTIONS FOR RETAIL PROVIDERS

1. Please identify each least-cost router, interexchange carrier (“IXC”), and any other wholesale relationship (collectively, “LCRs”) that you utilize for the transmission of 1+ and any other long distance/toll calls (“Calls”) placed by your retail end user customers.
2. Please provide a detailed explanation, including any routing table information, indicating how you choose which LCR you will use for the transmission of any given Call. This would include an indication of which LCR you may use on a given day or at a given time.
3. Please produce any and all documentation relating to any and all complaints, trouble tickets, or other inquiries involving a failure by one of your retail end user customers to complete a Call to another party located in any area served by a rural local exchange carrier (“RLEC”).
4. Please produce any and all documentation relating to any and all complaints, trouble tickets, or other inquiries involving a Call that rings without answer as placed by one of your retail end user customers to another party located in any area served by an RLEC.
5. Please produce any and all documentation relating to any and all complaints, trouble tickets, or other inquiries involving a Call that has been placed by one of your retail end user customers to another party located in any area served by an RLEC but was subjected to an intercept message indicating that the Call could not be completed for any reason.
6. Please produce any and all documentation relating to any and all complaints, trouble tickets, or other inquiries involving a Call placed by one of your retail end user customers to another party located in any area served by an RLEC where the Call is alleged to have displayed incorrect, inaccurate, or misleading Caller ID.
7. Please produce any and all communications you have had with LCRs relating to any and all complaints, trouble tickets, or other inquiries involving a failure to complete a Call to a party located in any area served by an RLEC.
8. Please produce any and all communications you have had with LCRs relating to any and all complaints, trouble tickets, or other inquiries involving a Call that rings without answer as placed to a party located in any area served by an RLEC.
9. Please produce any and all communications you have had with LCRs relating to any and all complaints, trouble tickets, or other inquiries involving a Call that has been placed to a party located in any area served by an RLEC but was subjected to an intercept message indicating that the Call could not be completed for any reason.
10. Please produce any and all communications you have had with LCRs relating to any and all complaints, trouble tickets, or other inquiries involving a Call that has been placed to a party located in any area served by an RLEC where the Call is alleged to have displayed incorrect, inaccurate, or misleading Caller ID to the called party.
11. Please produce any and all documentation explaining your policies with respect to management of LCRs, including but not limited to any contracts with such LCRs and other statements of policy regarding the need for LCRs to comply with applicable law and ensure timely completion of Calls.
12. Please produce any and all documentation indicating steps that you have taken to address acts or omissions by LCRs with respect to: (a) Calls that ring for the calling party, but not at all or on a delayed basis for the called customer; (b) calling parties who receive intercept messages stating that the Call cannot be completed for any reason; (c) Calls that do not complete; and/or (d) Calls for which incorrect, inaccurate, or misleading caller ID displays to called parties.
13. Please produce any and all communications you have had with RLECs regarding: (a) Calls that ring for the calling party, but not at all or on a delayed basis for the called customer; (b) calling parties who receive intercept messages stating that the Call cannot be completed for any reason; (c) Calls that do not complete; and/or (d) Calls for which incorrect, inaccurate, or misleading caller ID displays to called parties.